



DEPARTMENT OF TRANSPORTATION

[4910-22-P]

Federal Highway Administration

Buy America Waiver Notification

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This notice provides information regarding the FHWA's finding that a Buy America waiver is appropriate for the use of non-domestic 8'-0" high oxidized stainless steel cable net in New York City.

DATES: The effective date of the waiver is [insert date one day after publication in Federal Register].

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, (202) 366-1562, or via e-mail at gerald.yakowenko@dot.gov. For legal questions, please contact Mr. Michael Harkins, FHWA Office of the Chief Counsel, (202) 366-4928, or via e-mail at michael.harkins@dot.gov. Office hours for the FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the Federal Register's home page at: <http://www.archives.gov> and the Government Printing Office's database at: <http://www.access.gpo.gov/nara>.

Background

The FHWA's Buy America policy in 23 CFR 635.410 requires a domestic manufacturing process for any steel or iron products (including protective coatings) that

are permanently incorporated in a Federal-aid construction project. The regulation also provides for a waiver of the Buy America requirements when the application would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available. This notice provides information regarding the FHWA's finding that a Buy America waiver is appropriate to use non-domestic 8'-0" high oxidized stainless steel cable net safety fence for rehabilitation of High Bridge in New York City.

This special fence design is necessary to meet the unique project development requirements associated with the historic High Bridge which was designated an individual New York City landmark in 1970, and listed on the National Register of Historic Places in 1972. The fence design was reviewed and approved by the New York State Historic Preservation Office and the New York City Landmarks Preservation Commission. The New York City Department of Design and Construction (DDC) determined that there are only two domestic manufacturers/distributors of the cable mesh material and system appurtenances. The steel materials which comprise the mesh product will be manufactured domestically. The mesh cable will be certified domestic-melt stainless steel and will be further pulled into wire domestically; however, there are no domestic manufacturers capable of fabricating the cable mesh. The cable mesh assembly that includes spinning of wire into cable mesh, cutting of the cable, sliding of the ferrules onto the cables at regular intervals, and then precision pressing of the ferrules to hold the cables together, must be completed outside of the U.S.

In accordance with Division A, section 123 of the "Consolidated Appropriations Act, 2010" (Pub. L. 111-117), the FHWA published a notice of intent to issue a waiver on its Web site for 8'-0" high oxidized stainless steel cable net in New York City

(<http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=60>) on July 25, 2011.

The FHWA received eleven comments in response to the publication. Seven commenters opposed the waiver request but did not provide information about domestic manufacturers. Three other commenters were in support of the waiver and suggested that if the materials are not available in sufficient quantities of satisfactory quality, the waiver should be supported. The New York City DDC responded to each comment received for this waiver request. During the 15-day comment period, the FHWA conducted additional nationwide review to locate potential domestic manufacturers for the 8'-0" high oxidized stainless steel cable net. Based on all the information available to the agency, the FHWA concludes that there are no domestic manufacturers of 8'-0" high oxidized stainless steel cable net.

In accordance with the provisions of section 117 of the SAFETEA-LU Technical Corrections Act of 2008 (Pub. L. 110-244, 122 Stat. 1572), the FHWA is providing this notice as its finding that a waiver of Buy America requirements is appropriate. The FHWA invites public comment on this finding for an additional 15 days following the effective date of the finding. Comments may be submitted to the FHWA's Web site via the link provided to the New York waiver page noted above.

(Authority: 23 U.S.C. 313; Pub. L. 110-161, 23 CFR 635.410)

Issued on: January 27, 2012

Victor M. Mendez
Administrator

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